

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG

ALFRED R. KETELSEN,

Plaintiff,

v.

Civil Action No. 3:06CV21
(STAMP)

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before the Court for consideration of the Report and Recommendation of United States Magistrate Judge James E. Seibert (Doc. 13), dated January 29, 2007, to which neither party filed objections. Upon submitting this report, Magistrate Judge Seibert informed the parties that if they objected to any portion of his proposed findings of fact and recommendation for disposition, they must file written objections within ten days after being served with a copy of the report. To date, no objections have been filed by the parties. Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court is required to make a de novo review of those portions of the magistrate judge's findings to which objection is made. However, failure to file objections to the magistrate judge's proposed findings and recommendation permits the district court to review the recommendation under the standards that the district court believes are appropriate and under these circumstances, the parties' right to de novo review is waived.

See Webb v. Califano, 468 F. Supp. 825 (E.D. Cal. 1979). Accordingly, this Court reviews the report and recommendation of the magistrate judge for clear error.

It is the opinion of the Court that the Magistrate Judge's Report and Recommendation (Doc. 13) should be, and is, **ORDERED ADOPTED**.

As noted by the Magistrate Judge, *pro se* Plaintiff failed to comply with Local Rule of General Procedure 83.12(b) requiring that "[w]ithin thirty days after defendant has filed an answer and a complete copy of the administrative record, the Plaintiff shall file a brief in support of his or her claim(s) for relief." In the instant action, the Commissioner of Social Security filed the answer and complete administrative record on May 24, 2006. On December 15, 2006, the Magistrate Judge provided the Plaintiff with thirty days to file his brief and informed the Plaintiff of the consequences for failing to do so in accordance with Roseboro v. Garrison, 528 F.2d 309, 310 (4th Cir. 1975). To date, nearly sixty days have passed without the required filing by petitioner. As such, the Court **ORDERS**, consistent with the recommendation of the Magistrate Judge, that Plaintiff's case is **DISMISSED** for failure to comply with the local rules, and the action **SHALL BE STRICKEN** from the active docket of the Court.

It is so **ORDERED**.

The Clerk is directed to transmit true copies of this ORDER to all counsel of record.

DATED this 13th day of February 2007

/s/ Frederick P. Stamp, Jr.
FREDERICK P. STAMP, JR.
UNITED STATES DISTRICT JUDGE